4. SPECIAL PROJECTS AND REPORTS

A. Environmental Enforcement and Compliance at Federal Facilities (EPA)

The U.S. Environmental Protection Agency (EPA) has published a document (EPA 315-B-98-011) titled *The Yellow Book: Guide to Environmental Enforcement and Compliance at Federal Facilities*. Dated February 1999, this guide was developed to assist federal agencies in meeting mandated requirements under various laws and executive orders. Its primary purpose is to provide field-level personnel having environmental responsibilities at federal facilities with a comprehensive informational tool to both help them comply with environmental requirements and to understand the enforcement and compliance processes used by EPA and federal facilities.

The Yellow Book is designed to function as a user-friendly guide that contains useful and easily accessed information and as a resource for obtaining additional information on specific environmental issues. It is intended to ensure compliance with all regulations. The following outline is a brief overview of the topics covered in the Yellow Book:

1. Chapter I defines federal facilities, describes the different types of federal facilities, and identifies how EPA tracks federal facility activity. It provides answers to the following questions: What is a federal facility? How are federal facilities identified and tracked?

2. Chapter II summarizes key provisions of environmental statutes and executive orders with which federal facilities must comply. It addresses the need for federal facilities to comply not only with federal environmental requirements, but also with those of state, tribal, and local governments. In addition, several other laws affecting federal facilities (e.g., the Base Closure and Realignment Act) are discussed.

3. Chapter III discusses several crosscutting environmental issues that affect federal facilities. Included is a discussion of pollution prevention, federal government environmental awards and challenge programs, environmental justice, American Indian tribes, innovative technology, Federal Facilities Environmental Restoration Dialogue Committee, formerly used defense sites, and environmentally beneficial landscaping requirements.

4. Chapter IV discusses why and how EPA, states, and tribes monitor federal facility activities. It includes a discussion of the goals and objectives of EPA's federal facility compliance program and identifies the tools frequently employed to monitor federal agency compliance. Specific topics discussed include coordination between EPA Regions and the states on federal facility compliance; the reporting and recordkeeping activities that are required of federal facilities; the Code of Environmental Management Principles; Environmental Management Systems; inspections of federal facilities by EPA, states, and/or tribes; audits conducted by the facilities themselves; and Federal Agency Environmental Management Program Planning, commonly referred to as FEDPLAN.

5. Chapter V discusses EPA's federal facility enforcement philosophy, summarizes key enforcement policies affecting federal facilities, and provides an overview of enforcement authorities and the enforcement process. Also discussed, are EPA's response to violations at federal facilities operated by nonfederal parties (e.g., government-owned/contractor-operated facilities) and state/tribal response to federal facility violations. A chart depicting the EPA federal facilities enforcement process is provided. In addition, an exhibit is presented that provides definitions for significant violators and significant noncompliers of environmental requirements.

6. Chapter VI discusses EPA's role in providing compliance assistance to federal facilities. Included in the discussion are training opportunities, available hotlines, and access to EPA publications.

7. Chapter VII provides an overview of the major organizations and groups within EPA that are directly involved in activities affecting federal facilities. The chapter discusses the roles and responsibilities of the Federal Facilities Enforcement Office, Federal Facilities Restoration and Reuse Office, Office of Site Remediation Enforcement, Office of Federal Activities, Federal Facilities Leadership Council, and Regional Federal Facility Coordinators.

For further information, contact Mr. Craig E. Hooks, Director, Federal Facilities Enforcement Office, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (phone: (202) 564-2510).

B. America's Green Ports (UHI)

The Urban Harbors Institute (UHI) has published a preview report titled *America's Green Ports: Environmental Management and Technology at U.S. Ports*. According to the report, U.S. ports are experiencing an extensive shift in activity that is gradually changing the way ports are operated, what they are used for, and the way they are perceived. Public perception, environmental considerations, and economic factors have altered the definition of what a port can and should be. During this time of reevaluation, consolidation, expansion, and more stringent environmental regulations, ports are facing-up to their responsibility to cleanup the environment for ecological reasons, to improve the aesthetics of the waterfront for landside recreational activity and increased safety, and to take further advantage of the waterfront for proprietary commercial gain, often at a great expense. Many ports and port authorities have begun taking aggressive steps to remediate toxic areas in ports and prevent future incidences of pollution by adopting environmentally sound technologies and best management practices that allow for continued economic development of the port while minimizing the negative impacts to the environment and surrounding communities.

The Green Ports report is a compendium of research on ports and an attempt at tracking the various types of innovative and cost-effective management, technical measures, and activities U.S. ports are practicing to meet changing demands. The main goal of the study is to evaluate and compile environmental management efforts that have been employed with proven results in

U.S. ports, highlighting those that extend beyond compliance with regulatory requirements or legal injunctions. The report is a testament that significant advances in port environmental management have been made. However, complications continue to persist as each port struggles to find the most cost-effective and appropriate strategies for dealing with the environmental impacts of its operations. By facilitating and maximizing the exchange of information on environmental issues successfully addressed by a U.S. port, the Green Ports report is intended to provide guidance as ports endeavor simultaneously to boost business and improve the environment. The report addresses five environmental issues: air pollution, brownfields, land-based marine pollution, ship/port generated solid waste, and dredged material disposal. Each issue is described along with related impacts, applicable federal regulations, management options, and case studies.

For further information, contact the Urban Harbors Institute, 100 Morrissey Boulevard, Boston, MA 02125-3393, (phone: (617) 287-5570).

C. Commercial Maritime Industry and Federal Assessments (GAO)

The U.S. General Accounting Office (GAO) has published a report (GAO/RCED-99-260) dated September 1999 and titled *Commercial Maritime Industry: Updated Information on Federal Assessments*. One of the means by which the federal government generates revenue to support the U.S. maritime infrastructure is to enable federal agencies to levy assessments – user fees, taxes, and other charges – upon the commercial maritime industry. The commercial maritime industry includes vessel owners, vessel operators, importers, and exporters that move commodities by vessels engaged in domestic and international commerce. One of the assessments is the Harbor Maintenance Tax. In March 1998, the U.S. Supreme Court ruled that the export-related portion of the Harbor Maintenance Tax – the fee that funds virtually all maintenance dredging of U.S. ports – violated the constitutional provision on taxes imposed on exports. The import-related portion of this fee is also being challenged by the European Union. The administration has proposed an alternative funding mechanism to replace this fee called the Harbor Services User Fee – a cost-based user fee that would be assessed on commercial vessel operators. This proposed alternative has been controversial, especially with the commercial maritime industry, which contends that it is already burdened with heavy fees and taxes.

This report provides a comprehensive summary of the assessments currently levied on the commercial maritime industry. The report's results are briefly as follows:

1. Eleven different federal agencies currently levy assessments on the commercial maritime industry. In fiscal year 1998, the agencies collected almost $22 billion. The Customs Service collected by far the largest portion – almost $21 billion. The 10 other agencies each collected an average of $90 million in fiscal year 1998. Total collections have increased from $18.2 billion in fiscal year 1991 to $21.8, $21.9, and $21.9 billion in fiscal 1996, 1997, and 1998, respectively, though the amounts for some individual assessments increased or decreased.

2. In all, federal agencies levy 124 different assessments, ranging from various fees such as customs duties, ship registry fees, commercial fishing fees, and inspection charges. Since fiscal year 1992, 50 assessments have been added, and 45 have been deleted. In fiscal year 1998, shippers (importers and exporters) paid about $20 billion of the total, vessel owners and operators paid about $1 billion, and various other parties paid the rest. About $20 billion of the total revenues generated in fiscal 1998 was not earmarked for specific purposes and was deposited in the General Fund of the U.S. Treasury. Another $995 million was credited to agency accounts as reimbursement for the services they provided (issuing permits, conducting inspections, physical services, and other related activities). The remaining $762 million was deposited into three trust funds to be appropriated in future years to agencies for designated services.

3. Two new assessments are currently being proposed. The proposed Harbor Services User Fee legislation, the largest of the two, is being proposed by the administration as a replacement for the existing Harbor Maintenance Tax. The administration believes that the replacement fee, estimated to generate $980 million annually, is needed to fund federal channel and harbor projects. Unlike the Harbor Maintenance Tax, which is paid by shippers, foreign trade zone users, or operators of the vessel, the proposed fee would be paid only by vessel operators. The remaining proposed assessment is being proposed by the National Oceanic and Atmospheric Administration (NOAA).

4. Data provided by the U.S. Army Corps of Engineers (Corps) show that, at projected future revenue and expenditure levels, the surplus in the Harbor Maintenance Trust Fund will continue to grow well into the next decade. At the end of fiscal year 1998, there was a $1.3 billion surplus in the Harbor Maintenance Trust Fund. The surplus is projected to increase to $2.5 billion in fiscal year 2004. The Corps' projections assume that the import portion of the fee will remain intact.

For further information, contact Mr. John H. Anderson, Resources, Community, and Economic Development Division, U.S. General Accounting Office, 700 4th Street, NW, Washington, DC 20548, (phone: (202) 512-2834).

D. Puget Sound Confined Disposal Site (ACE)

The U.S. Army Corps of Engineers (ACE), Seattle District, in cooperation with the Washington State Department of Ecology and the Washington State Department of Natural Resources, has published a Final Programmatic Environmental Impact Statement (PEIS) for the Puget Sound Confined Disposal Site Study. Dated October 1999, this PEIS is intended to facilitate development of any site-specific confined disposal or treatment EIS that might follow. The site-specific EIS could use the PEIS document through "tiering" or "phasing," incorporating relevant aspects of the PEIS by reference and focusing on site-specific issues and impacts. The site-specific EIS would include application of a siting process and selection of candidate sites, site-specific design and impact analyses, and selection of a preferred candidate site(s).

The objective of this PEIS is to provide a broad initial environmental review and cost analysis of major alternatives for the confined disposal and treatment of contaminated sediments dredged from Puget Sound, Washington. From 6-13 million cubic yards of contaminated dredged material from Puget Sound will require confined disposal or treatment over the next 15 years. Eight different alternatives for addressing this need are described and evaluated in this final PEIS: no action, disposal in solid waste landfills, several types of constructed sediment disposal facilities (e.g., in-water, nearshore, and upland), sediment treatment (decontamination), and a combination of alternatives. There is no preferred alternative at this time. All of the constructed disposal alternatives and the solid waste landfill alternative are feasible from an engineering perspective and provide long-term confinement. Treatment is not yet feasible, but shows considerable promise. Costs vary substantially among alternatives but may be comparable on a site-specific basis, with significant economies of scale for larger facilities. The alternatives also have different environmental advantages, disadvantages, and risks.

The final PEIS evaluation provides environmental review and cost analysis of available alternatives. An array of issues concerning the natural and built environments is considered. Key environmental advantages and disadvantages among the alternatives concern habitat loss, changes in upland and aquatic land use, siting difficulty, sediment rehandling requirements and potential short-term environmental exposure, monitoring needs, and aesthetic impacts. Timing, liability, public perception, regulatory issues, and management options are also discussed. The PEIS does not speculate about how the Puget Sound Confined Disposal Study might be affected by state and federal policies on disposal of contaminated sediment that are still under development, and it does not address the proprietary issues related to the use of state-owned aquatic lands, their valuation, nor issues of funding related to cleanup costs.

For further information, contact Dr. Stephen Martin, U.S. Army Corps of Engineers, P.O. Box 3755, Seattle, WA 98124, (phone: (206) 764-3631).